

Message Text

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INFO AMEMBASSY ALGIERS

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C O R R E C T E D C O P Y (TEXT PARA 1 D)

E.O. 11652: GDS

TAGS: PBOR PFOR PORG SS UP MR MO AG

SUBJECT: SPANISH SAHARA - ICJ ADVISORY OPINION BRIEFS

REF: A. MADRID 3358 B. ALGIERS 1183 C. RABAT 2395 D. NOUAKCHOTT 995

1. DURING COURSE OF HOUR AND QUARTER DISSERTATION ON
SPANISH SAHARA PROBLEM MAY 19, SPANISH AMBASSADOR ANDRADA
MADE FOLLOWING OBSERVATIONS ABOUT DOCUMENTATION FILED WITH
INTERNATIONAL COURT IN CONCECTION WITH PROCEEDINGS RE
ADVISORY OPINION ON SPANISH SAHARA DISPUTE.

A. LATIN AMERICAN PRESENTATIONS WERE ONLY TWO OR
THREE PAGES LONG. ALL EXCEPT ONE VIGOROUSLY SUPPORTED
PRINCIPLE OF SELF-DETERMINATION. IN EVERY INSTANCE,
FILING NATION HAD OBVIOUS AXE TO GRIND: TERRITORIAL
DISPUTE WHICH COULD BE ADVANCED BY ADVISORY OPINION OF
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ONE SORT OR ANOTHER. ICJ PRECEDENT VIGOROUSLY APPLYING PRINCIPLE OF SELF-DETERMINATION, FOR EXAMPLE, WOULD CONTRIBUTE SIGNIFICANTLY TO FILER'S EFFORTS TO OBTAIN COVETED REAL ESTATE (PANAMA TO GAIN CONTROL OF CANAL ZONE, ARGENTINA TO ANNEX FALKLAND ISLANDS, ETC.). SOLE EXCEPTION WAS GUATEMALA. ACCORDING TO ANDRADA, GUATEMALA IN ITS DISPUTE WITH HONDURAS OVER BRITISH HONDURAS.. BES NOT UNDER ANY CIRCUMSTANCES WANT A UN-RUN PLEBESCITE IN BELIZE.

B. FRANCE SUBMITTED A VERY SHORT BRIEF STATING (1) IT DID NOT WANT TO BECOME INVOLVED IN PROBLEM, (2) IT HAD LONG SINCE SUBMITTED ALL DOCUMENTS AND MAPS NEEDED BY COURT IN CONNECTION WITH A PREVIOUS CASE, AND (3) IT STOOD READY TO LOCATE ANY DOCUMENTS ANY OF PARTIES MIGHT WANT IN FRENCH ARCHIVES ON CONDITION THAT IT WOULD HAVE THE RIGHT TO DISTRIBUTE DESIRED DOCUMENT TO ALL OF THE OTHER PARTIES IN THE CASE.

C. MOROCCAN BRIEF WAS AN ALMOST TOTALLY POLITICAL DOCUMENT. IT HAD CHAPTERS ON AFRICAN LIBERATION MOVEMENTS, RECENT DECOLONIZATION EFFORTS IN AFRICA, UNACCEPTABILITY OF CONTINUED EXISTENCE OF COLONIAL ANACHRONISM KNOWN AS SPANISH SAHARA, AND SIMILAR TOPICS. IN ANDRADA'S VIEW, MOROCCAN GOVERNMENT IN PURSUING POLITICAL RATHER THAN JURIDICAL APPROACH COMMITTED FUNDAMENTAL TACTICAL ERROR.

D. MAURITANIAN BRIEF WAS LARGELY DRAFTED AND COMPLETELY SKITED BY WELL KNOWN BELGIAN INTERNATIONAL LAWYER. IT IS HIGHLY COMPETENT PRESENTATION OF MAURITANIAN CASE, OUTLINING HISTORICAL FACTS AS WELL AS ETHNIC, TRIBAL, AND CULTURAL CONSIDERATIONS (E.G. IDENTITY OF LANGUAGE, DRESS, MUSIC, ETC. BETWEEN MAURITANIAN AND SAHARAN PEOPLES). BRIEF ENDS WITH STATEMENT "MAURITANIA CONTINJUS NORTHWARD UNTIL IT REACHES MOROCCO", A NICELY AMBIGUOUS FORMULA.

E. SPANISH BRIEF, WHICH IS OVER 1200 PAGES LONG, REHEARSED HISTORY OF SPANISH ASSOCIATION WITH WEST COAST OF AFRICA BEGINNING IN 16TH CENTURY. ACCORDING TO ANDRADA, SPANISH BRIEF MADES IT CRYSTAL CLEAR THAT SPANISH INTEND TO WITHDRAW FROM SPANISH SAHARA, AND THAT ONLY INTEREST OF GOS IS TO MAKE CERTAIN, BOTH AS A RESPONSIBLE GOVERNMENT

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AND AS A MEMBER OF UNITED NATIONS, THAT SAHARANS ARE GIVEN HONEST AND MEANINGFUL OPPORTUNITY TO DECIDE THEIR OWN FUTURE. BRIEF REPORTEDLY ASSERTS CATEGORICALLY THAT GOS DOES NOT CARE WHAT DECISION SAHARANS MAKE, INCLUDING JOINING MOROCCO, SO LONG AS IT IS FREE EXERCISZOF MAJORITY WILL. ANDRADA NOTED, HOWEVER, THAT SPAIN WOULD OBVIOUSLY PREFER TO HAVE SAHARANS CHOOSE INDEPENDENCE COUPLED WITH SOME SORT OF

ECONOMIC AND TECHNICAL ASSISTANCE ASSOCIATION WITH SPAIN.
THIS ROUTE WOULD GIVE SPANISH INSIDE TRACK IN SAHARA
JUST AS FRANCE OBTAINED FAVORED POSITION IN ALGERIA AND
MOROCCO WHILE ACCORDING THOSE NATIONS POLITICAL
INDEPENDANCE.

2. ON MORE GENERAL PLANE, ANDRADA COMMENTED HE SAW NO
WAY COURT COULD POSSIBLY COMPLETE ORAL PROCEEDINGS, REFLECT
ON ISSUES, AND DRAFT FOVHL OPINION BEFORE OPENING OF
GENERAL ASSEMBLY IN SEPTEMBER, ESPECIALLY SINCE
PRELIMINARY ARGUMENTS RE COMPOSITION OF COURT HAD NOT BEEN
DISPOSED OF YET. SUCH EVENTUALITY MIGHT PROVE HIGHLY USEFUL,
HOWEVER, FACT COURT WAS STILL ACTIVELY WORKING ON
PROBLEM COULD BE USED TO DELAY CONSIDERATION OF ISSUE UNTIL
LATE IN GA OR EVEN POSTPONE IT TO FOLLOWING YEAR, THUS
PROVIDING TIME TO ALLOW TEMPERS TO COOL DOWN AND TO PURSUE
ALTERNATE SOLUTION TO PROBLEM WHICH IS FUNDAMENTALLY POLITICAL
NOT JURIDICAL MATTER. ANDRADA ALSO SUGGESTED THAT ULTIMATE
OPINION WOULD BE SO CAREFULLY DRAFTED THAT IT WOULD PROVIDE
PUIS FOR EACH OF COMPETING PARTIES TO TRUMPET VICTORY
INTHEIR HOME NEWSPAPERS AND TO QUOTE CHUNKS OF
THE COURT'S ADVISORY OPINION AS SUPPORTING EVIDENCE. HANDYSIDE

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